IN THE HIGH COURT OF BOMBAY AT GOA

LETTERS PATENT APPEAL NO.10 OF 2002
and
CIVIL APPLICATION NO.313 OF 2002

Indian Saw Mills,
Tilamol, Xeldem,
Quepem, Goa ... APPELLANT

VERSUS

The Regional Director,
Employees State Insurance
Corporation, having office
at Panchadeep Bhavan,
Patto,Panaji-Goa ... RESPONDENT

Mr. M.S. Sonak and Mr. D. Pangam, Advocates for the Appellant.

CORAM : P.V. KAKADE &
P.V. HARDAS,JJ.

DATED : OCTOBER 28, 2002.

ORAL ORDER (Per **P.V. KAKADE,J.)**

The Appellant has filed this Appeal against the Judgment and Order dated 7th June,2002 passed by the learned Single Judge in Appeal under ESI Act No.2 of 2002, dismissing it in limine, being devoid of any substance.

2. The facts giving rise to the dispute are thus:-

The Appellant is a partnership firm carrying on the business of running saw mill. The

Respondent issued show cause notice to the Appellant to show cause as to why the Appellant should not be assessed to contribution under the ESI Act and asked the Appellant to produce the record on 6-5-1997. The Appellant informed the Respondent that due to the sickness of the Appellant's father, records could not be produced and hence again direction to produce the records was given. The records could not be properly verified and hence the Respondent issued Order under Section 45-A of the ESI Act demanding an amount of Rs.28,314/- as the contribution for the period from October 1994 to September 1996 along with interest of Rs.7,003/-. The Appellant thereafter produced records before the Respondent and challenged the Order before the ESI Court under Section 75 of the ESI Act. After hearing both the sides, the ESI Court rejected the Application made by the Appellant and, therefore, he preferred the Appeal No.2 of 2000. The learned Single Judge heard the parties and came to the conclusion that there was no substance in the Appeal and dismissed it in limine. Hence this Letters Patent Appeal.

3. We have heard the learned Counsel for the Appellant and perused the record vis-a-vis the impugned Order passed by the learned Single Judge. On perusal of the record it is seen that the

Appellant has taken up submissions regarding misappreciation of evidence and documents. However, the learned Single Judge after having seen the evidence, documents and the findings recorded, reached to the conclusion that no substantial question of law was involved warranting entertainment of the said Appeals under Section 82 of the Employees State Insurance Corporation Act, which was analogous to Section 100 of the Civil Procedure Code. It was also held that the re-appreciation of evidence was not permissible and no misconstruction of evidence was shown in any way whatsoever. It was also observed that no perversity could be demonstrated by the Appellants and the appreciation of evidence was legal and proper as the findings were found to be based on legal evidence and each finding could be supported on the basis of material on record. In view of this position, the Appeal came to be dismissed.

4. We have carefully considered the entire record vis-a-vis the impugned Order by the learned Single Judge and find no substance in the Appeal and hence hold that no interference in the Order of the learned Single Judge is required.

5. In the result, the Letters Patent

Appeal stands dismissed with no order as to costs, along with the Civil Application.

P.V. KAKADE,J.

P.V. HARDAS,J.

ac.